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## HOME RULE FOR OUR AMERICAN CITIES.

It is a familiar remark that in America we have succeeded in doing nearly everything else better than govern our municipalities. All the principal cities of this country have suffered and are suffering from grave administrative scandals which have been the cause of much inquiry for some practical and effective method of reform. It is agreed that the men whom we elect to fill the executive and legislative offices of our city governments are not of that high type of citizenship which would lead us to expect ability or probity in the public service. It is said that the electors themselves are alone to blame if, knowing this and with the means of correction at hand, they permit dishonest and inefficient agents to administer their affairs. Yet this is not adding anything new to the discussion. We must recognize that the fault lies in the system and it is toward this point that all efforts for permanent reformation must be directed.

There has been much debate concerning the relations of the people to their city governments and there has been much experimentation with forms and superficialities, but—at least it is so in the East—there seems yet to have been little thought given to the relations between the States and the city governments. Just here one of the primal elements in the difficulty may perhaps be found.

The cities were in the original scheme of our government, and are still, the creations of the States. They are, with the exceptions to be spoken of later in this article, granted charters by the Legislatures of the States, which in many cases have unlimited powers, both in making the grant and in withdrawing it again or enacting amendments. It was the uniform plan earlier and it still prevails in several States, notably and probably with the most evil consequences in New York, to confer city charters by special laws. Such a

charter, though imposing obligations on the people who are to live under it, imposes none on the Legislature which grants it. It is liable to change at the pleasure of the granting power and the interferences in many cases are frequent and utterly contrary to the needs or wishes of the city. For instance, in a recent session of the Legislature of New York, a law was passed authorizing a part of Central Park in New York City to be used as a race track. Recent liberties have been taken by the Legislature with the new charter of Buffalo, wholly distasteful to the people of that city, and in every State which grants charters by special act the proceedings of each legislative session are burdened with bills affecting city affairs, these bills not infrequently being schemes to enrich cliques or individuals by obliging the city to buy private property, to create additional lucrative offices or to grant valuable franchises or business privileges. This may have been a suitable enough plan, and satisfactory in its results, in earlier times when the cities were little more than village communities and could be treated as the counties and the other local divisions of the State. But when a city comes to be a great metropolis, containing perhaps a population as large or half as large as all the rest of the State, and much larger than that of many of the less populous States, containing wealth and taxable property greater in value than all the agricultural counties combined, with widely diverging interests and requirements, the absurdity of such a system must appear plain to every one.

There has been latterly a very clearly-defined tendency to place restrictions on the Legislatures in this matter of granting and amending city charters. The constitutional conventions have taken the subject in hand and nearly all the State constitutions which have been framed since the war prohibit charter granting by special law; and provide further that these laws shall be general, specifying sometimes, as in Missouri, Kentucky and Wyoming, the number of classes into which the cities of the State shall be divided and making

other specifications, as in California, that the city legislatures within the State shall be bi-cameral.\* Although this is an undoubted move for the better, the improvement is not so marked in reality, as it might appear. These general acts divide the cities of the State into several classes. Some of them by the very terms of their enactment abolish all special charters previously granted and make incorporation by the new system obligatory. In other cases incorporation under the new law is optional, dependent upon a vote of the people expressed according to the principles of the referendum. Unless it is so specified in the constitution there is no limit to the number of classes into which a Legislature may divide the cities of the State. It may construct a classification so as to have but a single city in a class, and it has been decided by the courts that such legislation is not necessarily special and therefore not unconstitutional. The Legislature may, on the other hand, make its laws very general, as in Illinois, where, with the liberty allowed it, the Board of Aldermen of Chicago has largely framed the government of the city at its own pleasure.

To treat the subject more specifically we may look briefly at the present state of municipal government in this country as exemplified in the eight largest cities, which, according to the census of 1890, are in rank as follows: New York, Chicago, Philadelphia, Brooklyn, St. Louis, Boston, Baltimore and San Francisco.

New York City, by the regular official census of 1890, had

\* The constitutions of the following States require charters to be granted by general law :

Ohio, Illinois, Michigan, Wisconsin, Kansas, Nebraska, Virginia, Missouri, Arkansas, California, New Jersey, Indiana, Iowa, West Virginia, Tennessee, Florida, Pennsylvania, Kentucky, Idaho, Wyoming, South Dakota, Mississippi and Washington.

In Texas cities with a population below 10,000 must be organized under general laws. In Louisiana special legislation affecting cities is forbidden, exception being made for New Orleans.

The granting of charters by special law is still permitted by the constitutions of the following States :

New York, Maine, Michigan, Minnesota, Maryland, North Carolina, Oregon, Nevada, Colorado and Alabama.

a population of 1,515,301, which is greater than that of any one of twenty-nine States in the Union. The government is organized under a special charter, granted by the Legislature in 1873. This has been many times amended and supplemented by the Legislature. The Mayor is elected at the November election and holds office for two years at a salary of \$10,000 a year. There are the following Executive Departments: Finance, Law, Police, Public Works, Parks, Docks, Charities and Corrections, Fire, Health, Taxes and Assessments, and Street Cleaning. The heads of the Departments are all appointed by the Mayor, usually for a term of six years, and they have very comprehensive powers. The Mayor also appoints the Board of Education, which is made up of twenty-one Commissioners, one-third chosen annually. The legislative body consists of but a single branch, called the Board of Aldermen. It is composed of thirty members, elected by districts at the general election in November for a term of two years. Before the reapportionment of last year it contained twenty-five members and the term was one year. The Aldermanic districts have the same boundaries as the State Assembly districts. A thirty-first member of the Board, who serves as presiding officer, is elected on a general ticket. The action of the Aldermen was formerly necessary in confirming the Mayor's appointments, but it is not so now. They meet at their own pleasure, usually once a week. A three-fourths vote is needed to pass an ordinance over the Mayor's veto. The city is co-extensive with New York County.

Chicago, with a population of 1,099,850, derives its government from a general law. At an election in 1872, soon after the law was passed, a vote was taken on the question of incorporation, and the people of the city decided to incorporate. This law is but a groundwork upon which the local legislative authority has built a government. The Mayor is elected for two years. He presides at all meetings of the City Council, but has no vote except in case of a tie. He appoints, by and with the advice

and consent of the Council, the heads of the following departments: Finance, Public Works, Buildings, Law, Health, Police, Fire and several inspection bureaus. These officers, like the Mayor, serve for two years. The Mayor also appoints a Board of Education, consisting of fifteen members, likewise subject to the approval of the Council. He has a veto on all bills and appropriation items. The legislative authority of the city is exercised by a single Council of sixty-eight Aldermen. The city, until 1889, comprised twenty-four wards. In that year much territory was annexed and ten new wards were added. There are two Aldermen from each ward, who serve for a term of two years, one half elected each year at the general municipal election in April. The Council has liberal powers. It may by a two-thirds vote reinstate an officer whom the Mayor has removed. It may and does refuse confirmation to his appointments, issues licenses, grants all franchises and fixes salaries. Ordinary bills are passed by a majority vote and a two-thirds vote passes over the Mayor's veto. The Council, having created the departments and given form to the government, can at any time abolish or amend.

Philadelphia with a population of 1,046,964, in 1890, has a government which includes all of Philadelphia County, the two being united and co-incident. The city administration had come to be very corrupt and discreditable when Governor Hartranft in his message in 1876 advised a State Commission to devise a plan of municipal reform. The Legislature authorized such a commission, consisting of eleven members appointed by the Governor. They drew up a report in 1877 and submitted a bill to the Legislature. It was sent to a committee, but because of various hostile influences never found its way out. This was the beginning of what has since been very generally known as the "Bullitt Bill," called after the man who was most influential in framing it. It appeared again in the Legislature during the session of 1883, when it got so far along as to pass the Senate, but it failed in the House. There was a very strong

sentiment in the city in favor of the bill or something like it, and the contest was continued in the next Legislature, which met in 1885. It finally in that year passed both Houses, was approved by the Governor and went into operation in April, 1887. The "Bullitt Bill" is a general act "to provide for the better government of cities of the first class," which in effect is special inasmuch as Philadelphia is the only city in the State of this class. The bill reformed only the Executive Departments. Before 1887 there were 27 departments of government in Philadelphia, each department supervised by committees of Councils. They were not responsible to any central head and each managed its business in its own way. It was a system which was not only cumbersome and extravagant, but it afforded many opportunities for dishonesty. Instead of 27 departments the new law provided for nine:—Public Safety, Public Works, Receiver of Taxes, City Treasurer, City Controller, Law, Education, Charities and Correction, and Sinking Fund Commission. The Mayor is elected for a term of four years. He issues an annual message, calls special meetings of the city legislature and appoints and removes the heads of those departments with whose appointment he is vested. He has a veto on all bills and appropriation items. The chief officers in his cabinet are the Director of Public Safety and the Director of Public Works, who are appointed by the Mayor, by and with the advice and consent of Select Council, and are directly responsible to him. The city legislature called Councils, is made up of two branches, Select Council and Common Council. These bodies have equal powers in legislation, Select Council in addition, giving "advice and consent" to the Mayor's appointments. Each elects its own presiding officer from among its own members. The organization of Councils is quite ancient. They meet in separate chambers and do business as two distinct yet complementary bodies. The city as now divided has 35 wards.\* One member of Select Council

\*Two new wards were authorized by popular vote at the election in November, 1892.

is elected from each ward, that branch therefore now contains 35 members. Their terms are three years, one-third being chosen each year at the municipal election in February. Members of the Common Council are also elected on ward tickets, each ward being entitled to one representative to every 2000 tax-paying inhabitants. Some wards thus have but a single member while others have as many as seven. The chamber as now constituted contains 117 members. They are elected for terms of two years, one half being chosen one year and one half the next.

Brooklyn, a city of 806,343 inhabitants, was recently given a new charter by the State Legislature, which, like the charter of New York is, however, liable to constant alteration by special act. The government by this "reform" charter was very much concentrated. Enlarged powers were given to the Mayor, until Brooklyn to-day stands as the most distinctive type of centralized city government. The Mayor is elected every two years. He has sole and exclusive power in the appointment and removal of the officers of all except two of the departments, including the City Treasurer. These departments are as follows, the heads of the first two, the Comptroller and the Auditor, alone being chosen by the people: Finance, Audit, Treasury, Collection, Arrears, Law, Assessment, Police and Excise, Health, Fire, Buildings, City Works, Parks and Public Instruction. The appointments are for two years, the terms thus coinciding with the Mayor's so that he can organize a sympathetic administration. There is exception made for the Board of Education, which is composed of 45 members, serving for three years, fifteen appointed every year. The Mayor has the veto power in all city legislation. The legislative power is also concentrated. There is a legislature of but a single chamber and that composed of but nineteen members. The city is divided into twenty-eight wards which are arranged into three Aldermanic districts. Four Aldermen are elected from each district and seven at large on a general ticket. This body is called the Board of Aldermen

or Common Council. The members hold office for two years and their terms all expire at the same time. Many powers which would otherwise belong to the Common Council under the present scheme of government rest with the Board of Supervisors of Kings County, twenty-eight members of which are elected in Brooklyn.

St. Louis cares for 451,770 people by a system which has generally been looked upon as a model among American city governments. The constitution of Missouri, adopted in 1875, forbade special legislation affecting cities and provided in separate terms for St. Louis. The city was at that time included in St. Louis County. By a process, to be described more fully on a subsequent page, the city, taking advantage of its constitutional privileges, in 1876, elected a Board of Free-holders, and by popular vote separated itself from the county and adopted a new charter. This charter is still in force. It divides the city into twenty-eight wards. The Mayor holds office for four years and though given large appointive powers is hedged about in the exercise of them by many restrictions. He appoints a Board of Public Improvements of five members, the President of which is elected by the people, a Board of Assessors, the President of which is elected by the people, a Board of Health, a Chief of the Fire Department, five Commissioners of Charitable Institutions, a City Counselor, and several minor officials. These officers are chosen by the Mayor at the beginning of the third year of his term, and in their appointment he must have the concurrence of the Council, the upper branch of the city legislature. By postponing the appointments until the middle of the Mayor's term it is hoped to secure a much more independent exercise of judgment and avoid many well-known evils and abuses, such as rewarding personal friends for political service. The Police Department is independent of the city government. It is entirely under the control of a Board of Commissioners appointed by the Governor of the State, of which Board, the Mayor is *ex officio* a member. The legislature is called the Municipal Assembly.

It is bi-cameral, consisting of a Council and House of Delegates. The Council is composed of thirteen members, who are chosen for four years, upon a general ticket. The House of Delegates contains twenty-eight members, one member from each ward, chosen upon ward tickets for terms of two years. Each chamber elects its own presiding officer and may pass bills over the Mayor's veto upon a two-thirds majority.

Boston, with almost as many inhabitants as St. Louis, 448,477, derives its government from an old charter which the Legislature of Massachusetts has many times amended and supplemented by special act. The city is divided into twenty-five wards, and the chief agents of government are a Mayor and a bi-cameral Council, whose branches are a Board of Aldermen and a Common Council. The Mayor is elected every year at the municipal election in December. He is vested with very extensive powers. He appoints, subject to the confirmation of the Board of Aldermen, as members of permanent boards or as single heads of departments, as many as 107 persons.\* There are no less than forty separate departments and executive bureaus, exclusive of the Board of Police, which is appointed by the Governor, and the members of the School Committee and the Street Commissioners, who are elected by the people. The Mayor is vested with the appointment of the officers in the following departments: Fire, Survey and Inspection of Buildings, Health, Public Institutions, Water, Parks and Assessment, besides a City Treasurer, City Auditor, City Solicitor, City Collector, Overseers of the Poor, Directors of the Public Library, City Hospital Trustees, Sinking Fund Commissioners, and various minor officers and superintendents. All are under the general supervision of the Mayor, thus securing a responsible administration. The Mayor has the veto power but the Council may overrule it by the usual two-thirds vote. The upper branch of the City Council, the Board of Aldermen,

\* "The City Government of Boston," James M. Bugbee, Johns Hopkins Series, Fifth Series, No. iii.

contains twelve members, one elected annually from each of the Aldermanic districts into which the city is divided; the Common Council, or the lower branch, has seventy-five members, also elected annually, each of the twenty-five wards being entitled to three representatives.

The city of Baltimore, with a population of 434,439, is given a number of guaranties respecting the form and establishment of its government by the constitution of Maryland. This basic scheme has been added to and filled out to its present form by special acts of the State Legislature. At the session of 1890 alone, sixty-seven laws were passed directly affecting the city of Baltimore. The city is divided into twenty-two wards. The Mayor divides the responsibility of government with a City Council of two branches. He is elected for two years, and makes appointments subject to the advice and consent of a convention of the two branches of the City Council. A three-fourths majority of the Council is necessary to pass bills over his veto. The principal city officers are the Comptroller, City Counselor, City Solicitor, a Commissioner of Streets, a Board of Fire Commissioners, a Board of Health, a Harbor Board, a Board of Park Commissioners, a Water Board and a City Collector. The Mayor, either officially or *ex officio*, is a member of several of these boards. The schools are in charge of a Board of Commissioners, one from each ward, elected by the two branches of City Council in joint convention. The Police Department is under State control, three commissioners being elected jointly by the two Houses of the General Assembly. The two branches of Council are called the First Branch and Second Branch. The First Branch is made up of twenty-two members, chosen annually, one from each ward. The Second Branch contains eleven members, one to represent every two contiguous wards. The members of this branch serve for a term of two years. One of the rights bestowed upon the city by the State constitution is that of a popular vote on all propositions to create municipal indebtedness. A six million dollar loan ordinance was voted

upon and approved by the people at the election November 8, 1892.

The present government of San Francisco, a city with 298,997 inhabitants, dates from the consolidation act of 1856. This has been amended and re-amended at various times, by special act prior to the adoption of the State constitution of 1879, when special legislation was prohibited, and since that time by so-called general laws applying to all cities in a class to which only San Francisco has sufficient population to belong. There is a consolidated government known as the city and county of San Francisco, and the district, for purposes of administration, is divided into twelve wards. The governing authority is vested in a Mayor and a single-chamber legislature known as a Board of Supervisors. This Board has twelve members, one from each ward, nominated in a general city convention and elected on a general ticket. They serve for a term of two years. Each Supervisor must be a resident and elector in the ward for which he is elected. There are no other qualifications. The Mayor's term is also for two years, the election for all local officers occurring in the fall at the same time as the general election. The city departments are in charge of committees of the Board of Supervisors. A Superintendent of Public Streets, Highways and Squares is elected by the people. The Mayor's field of authority is on all sides closely bounded by the Supervisors. Seven votes in the Board of Supervisors will pass bills and nine votes will pass them over the Mayor's veto. The Mayor cannot veto parts of appropriation bills and is vested with few appointments. He is *ex officio* President of the Board of Supervisors and is usually present to preside, but has no vote.

In this brief comparative survey of the governments of these eight largest cities in the United States certain facts compel notice. In the first place, it is to be observed that all the cities except one are governed by charters or codes received from the State Legislatures, these charters or codes being constantly subject to change by the

same authority which made the original grant. These changes may be made in some cases by special acts, in others by so called general acts which apply to all cities of a certain class in the State, to which class, however, usually only one city in the State is qualified to belong. There are three cities in the group whose Police Departments are in control of the State—Boston, Baltimore and, strangely enough, the one city which has the most freedom in other regards, St. Louis. There is another fact to be noted, the tendency to concentration of power in the Mayors which is to be observed in recent years in nearly all the cities in the group, unless we except San Francisco. This tendency is especially plain in Brooklyn, Philadelphia, Boston and New York, where the Mayors have absorbed vast privileges previously vested in the city legislatures. Great need has been felt of a more unified and more responsible government. With this end in view, the Executive Departments have been given an increase of authority. The chief officers are made appointive by the Mayor and are responsible to him for the performance or non-performance of their duties.

In the same way there has been a tendency toward a city government which shall, as nearly as may be, resemble the national government. The author of the "Bullitt Bill," Philadelphia's reform charter, when the bill was before the Pennsylvania Legislature, gave as one of his chief reasons in advocating it that its adoption would establish a scheme of city administration modeled after the Federal system. It is thus that our city governments are coming to have legislatures with two chambers; Mayors with responsible cabinets, which they appoint, subject to the confirmation of the upper chamber of the legislature; Mayors with the power of vetoing not only all ordinances, but also single items of appropriation bills; and Mayors whose terms of office are long enough to enable them to build up a strong and definite administration. The similarity is most marked, perhaps, in Philadelphia. It is very plain here in the Executive Department, but especially so in the Legislature; the members of

one branch representing districts, an equal number coming from each district, the members of the other representing the people and apportioned to the districts according to population.

There is another fact to be noted, that, though public affairs in all of these cities are administered with less efficiency than they should be, one of them has advanced much farther than the others on the way toward good methods and practical reform. This is St. Louis, which, by the constitution of Missouri framed in 1875, was given rights of self-government not previously possessed by any city in the country. The city, without the slightest intervention of the State Legislature, could elect a Board of Freeholders, if it chose, and the latter in manner like a State Constitutional Convention should frame a charter to be submitted to the people of the city for approval or rejection. As this plan has been adopted since in California and Washington and is likely soon to extend into other States, it is our purpose here to trace its origin and growth, first in Missouri and then in the States of the Pacific Coast.

The Constitutional Convention which was to inaugurate this revolution in our American municipal system met at Jefferson City, May 5, 1875 and continued its deliberations until the following August. The government of St. Louis had been notoriously bad for a long time; the State Legislature had become very meddlesome and there was a general feeling in favor of some radical change. The St. Louis delegation went into the Convention determined to secure from the country members some satisfactory concessions on this subject. About a week after the Convention met, Mr. Joseph Pulitzer, of St. Louis, introduced a resolution that municipalities, having a population of 100,000 and over, should be regulated by a "fundamental constitutional charter" which should not be subject to yearly change by the Legislature unless such change be proposed by the concurrent action of two-thirds of the members of the city Council and the Mayor, and be endorsed likewise by a two-thirds vote of

the people at a special election. On May 13 the St. Louis delegation was appointed a "Committee on St. Louis Affairs" to consider and report on all matters having special reference to that city, and to this committee Mr. Pulitzer's resolution was referred. It was also felt that the city should be separated from St. Louis County and that the two governments should be operated singly. The proposition to separate the city and the county was one which the tax-payers had been urging for many years. The city, which naturally contained the most taxable wealth, for a long time had been paying to make public improvements beyond the city limits which could be of no direct benefit to the people of the city and in which they could not be expected to have any interest.

In June the scheme for solving these difficulties began to take the form which it later assumed,—that the city should elect thirteen of its citizens a Board of Free-holders to propose a "scheme" for separating the city and county governments and to frame a city charter, both the "scheme" and the charter to be submitted to direct popular vote. Amendments to this charter were to be made not oftener than once in two years by proposals submitted by the city authorities and ratified by a three-fifths vote of the people. On July 29, the chairman of the St. Louis delegation reported the plan his committee had agreed to which was in substantially its present form. There was, as it was expected there would be, much opposition from the country members of the Convention. The scheme was spoken of as "unwise and vicious." One member was willing to vote for it but wanted this amendment: "Provided that this section shall not be so construed as to prohibit the General Assembly from amending, altering or repealing said charter so adopted whenever it may be necessary for the public interest." The burden of the opposition, judging by the speeches which ensued, sprang from a fear that the city, being released thus from the control of the Legislature, might set up on its own account some kind of an independent government. It was contended on the other side that the plan

would benefit the State at large as well as St. Louis, in that it would relieve the Legislature of the consideration of purely local matters which at each session consumed a great deal of time and interfered with the discharge of other business.

The following substitute amendment was finally adopted, that "Notwithstanding the provision of this article the General Assembly shall have the same power over the city and county of St. Louis that it has over other cities and counties in this State," and on July 30, the scheme as a whole was adopted by a vote of 53 ayes to 4 noes.

A subsequent section contained a general provision extending the privilege of charter-making independent of legislative interference to any city in the State "having a population of more than 100,000."\*

St. Louis elected thirteen freeholders, in accordance with the privilege granted it, soon after the constitution went into effect. These freeholders had the duty not only of framing a charter, but of preparing a "scheme" for

\* ARTICLE IX. Section 16. Constitution of Missouri.

Any city having a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which board shall, within ninety days after such election, return to the chief magistrate of such city a draft of such charter, signed by the members of such board, or a majority of them. Within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall, at the end of thirty days thereafter, become the charter of such city, and supersede any existing charter and amendments thereof. A duplicate certificate shall be made, setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the Recorder of Deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter, so adopted, may be amended by a proposal therefor, made by the law-making authorities of such city, published for at least thirty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of such city, voting at a general or special election, and not otherwise; but such charter shall always be in harmony with and subject to the constitution and laws of the State.

separating the governments of St. Louis City and St. Louis County, for the ascertainment of their respective boundaries and the adjustment of their relations. The "scheme" and charter were submitted to the people August 22, 1876, with the following announced result:

New Charter, . . . .	Yes, 11,858	No, 11,300
Separation Scheme, . . . .	Yes, 11,725	No, 14,142

These returns defeated the "scheme," but charges of fraud were made and the case was taken into the Courts. After judicial investigation the correct figures were decided to be:

For Charter, 11,309		For Scheme, 12,181
Against Charter, 8,088		Against Scheme, 10,928

This charter has been recognized generally by authorities on city government as the best American model for charter-makers. The city, however, as will appear after a consideration of the wording of the constitution, is still bound in some measure by the State Legislature. It is not very definitely settled just what powers the Legislature would have in the case. It has not chosen to exercise them arbitrarily and the question has not assumed as important a phase as in California. It was decided in *Ewing vs. Hoblitzelle*,\* a case which reached the State Supreme Court at the October term, 1884, that a law passed by the Legislature governing elections in cities of more than 100,000 inhabitants applied to St. Louis. It was contended that the city, by the adoption of its own charter, had been freed from State control on this subject, but the court held otherwise and said that by this provision in the constitution St. Louis had not been created an *imperium in imperio*. The opinion was offered, however, that there could be no constitutional objection in permitting voters of a city to frame and adopt a charter for its government if this was done in subordination to the constitution and the laws of the State.

The only other city in the State with a population of more than 100,000, and therefore privileged to frame its own

\* 85 Mo. p. 64.

charter, is Kansas City. By the census of 1890 this city contained 132,716 inhabitants, 13,048 of whom, however, the State Supreme Court has since decided reside outside the municipal limits. A "Freeholder's Charter" was adopted at a special election held April 8, 1889, by a vote of 3,439 for and 771 against. The charter went into effect May 9, 1889, and, the Mayor writes, "has proved very satisfactory."

The experience of St. Louis was reported to be so fortunate that, when a convention met in 1879 to frame a new constitution for California, an effort was made to secure the same self-governing privileges for San Francisco. The scheme appeared in the Convention on January 16, 1879, when Mr. Hager, the Chairman of the Committee on City, County and Township Organization, reported twenty-six articles, one of them very similar to the provision in the constitution of Missouri, allowing cities of over 100,000 population to elect freeholders and frame their own charters. When the proposition came up for debate there was immediate opposition, as is shown on the records of the Convention, by a motion to "strike out." The regulation applying only to cities containing a population of 100,000, and San Francisco being the only city in the State with so large a population, the discussion assumed a certain sectional character. The San Francisco delegates, for the most part, approved of the new idea as likely to be the means of reforming the city government. The charter of San Francisco at this time was a volume of 319 pages of fine print. Originally it had covered only thirty-one pages, but there were over a hundred supplemental acts which led to many evils and much confusion. Many of these acts, it was charged, had been passed in the interests of single individuals and corporations. The city was said to be very corruptly governed. It was under the management and administration of twelve men, composing a Board of Supervisors, seven of whom could send any measure to the Mayor, and nine of whom could do business over his veto. It was not unusual for nine men in the Board to form a combination and this clique, called the "solid

nine," ruled the city. The laws which were responsible for this condition of things it was further charged had been framed by about a half a dozen men who took them up to Sacramento and had them adopted by the Legislature without the wish, knowledge or consent of the people.

Chairman Hager in defence of the new charter scheme said that personally he was willing to extend the privilege to cities containing 10,000 or 20,000 people if the convention was agreed. As he had originally drawn up this section it was made to include all cities, but in committee, the limit was placed at 100,000. It was admitted that the idea was copied almost exactly from the constitution of Missouri, and the successful experience of the city of St. Louis was pointed to in the debates. On the other hand the opposition professed great fear that San Francisco would break loose from the rest of the State and set up a free government. "This is the boldest kind of an attempt at secession," said one speaker, and another offered an amendment that the city should receive from the State "all the privileges and consideration accorded to the most favored nations," and that the Legislature should provide "a duly accredited minister as representative of the State in the said city." The opposition was so great in truth that the friends of the scheme were compelled to accept an amendment that, after being voted on by the people, the charters should be submitted to the State Legislature, to be approved or rejected, as a whole, however, without power of alteration or amendment.\*

\* This section as adopted was as follows :

ARTICLE XI. Section 8. Constitution of California.

Any city containing a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this State, by causing a Board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of such city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such Board, or a majority of them, and returned, one copy thereof to the Mayor, or other chief executive officer of such city, and the other to the Recorder of Deeds of the county. Such proposed charter shall then be published in two daily papers of general circulation in such city for at least twenty days, and within not less than thirty days after such publication it shall be submitted to the qualified electors of such city at

The friends of good government in San Francisco early took advantage of the opportunity offered them by the new constitution to secure a new charter. The Board of Election Commissioners of the city, on March 4, 1880, called a special election for March 30, 1880, to choose fifteen freeholders, who should "prepare and propose" a charter. The charter which they framed makes a book of 192 pages, and the scheme of government proposed was modeled after the national system. The city legislature was to consist of two boards called the Board of Aldermen and the Board of Assistant Aldermen, one elected by general ticket, the other by ward tickets, both, however, of the same size, each containing but twelve members. The charter, like the Federal and State constitutions, divided the government into three departments, "Legislative," "Executive" and "Legal." The Mayor was to hold office for four years and have increased powers of appointment. The city departments were to be in charge of boards, the members of which were to be chosen by the Mayor, subject to the confirmation of the upper chamber of the city legislature. The Mayor could suspend any officer of the city and county upon allegations of malfeasance and failure in the discharge of duty, the Board of

a general or special election, and if a majority of such qualified electors voting thereat shall ratify the same, it shall thereafter be submitted to the Legislature for its approval or rejection as a whole, without power of alteration or amendment, and if approved by a majority vote of the members elected to each house, it shall become the charter of such city, or if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter and all amendments thereof, and all special laws inconsistent with such charter. A copy of such charter, certified by the Mayor or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors and its ratification by them, shall be made in duplicate and deposited, one in the office of the Secretary of State, the other, after being recorded in the office of the Recorder of Deeds of the county, among the archives of the city; all courts shall take judicial notice thereof. The charter so ratified may be amended at intervals of not less than two years, by proposals therefor, submitted by legislative authority of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals, and ratified by at least three-fifths of the qualified electors voting thereat, and approved by the Legislature as herein provided for the approval of the charter. In submitting any such charter, or amendment thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

Aldermen to sit later as an impeaching court. This charter was submitted to popular vote at a special election held September 8, 1880, but was rejected.

Another Board of Freeholders was chosen in 1882, and another charter submitted to the people. This government was in the main like the one proposed in 1880, except, that the powers of the Mayor were diminished, and offices, before to be filled by appointment, were made elective by the people. An election was held March 3, 1883, and this charter was likewise defeated. A third Board of Freeholders was elected and a third charter submitted to the people of the city on April 12, 1887. The general form of the government proposed in that year, did not differ radically from that of 1880 and 1883, though it more closely resembled that of 1880, in that it put greater trust in the Mayor in the matter of appointments. This the people also rejected. The vote at these three elections was as follows :

	September 8, 1880.	March 3, 1883.	April 12, 1887.
Against, . . . . .	19,143	9,368	14,905
For, . . . . .	4,144	9,336	10,896
Majority against, . . . .	14,999	32	4,009

The heavy adverse majority in 1880 was thought to have been attributable to a provision in the charter for removing the cemeteries, which met with the opposition of influential church bodies and several secret societies. The second charter, against which there was such a slight majority was generally believed to have been counted out. All three met with the active opposition of the "City Hall Gang," which has been such a potent factor for corruption in San Francisco for many years.\*

\* "The freeholders tried to give us too good a government in each charter. More moderate reforms would have been accepted."—MR. HORACE DAVIS, in a letter from San Francisco.

Thus San Francisco, after three attempts to remove herself from under the influence of the State Legislature, has in each instance failed. There has been a recent movement to elect another Board of Freeholders, who should frame a fourth charter, and it is not unlikely that the effort may soon succeed.

In spite of San Francisco's experience, so well satisfied were the people of the State that this was the correct principle in city charter making, that the Legislature at the session of 1886, proposed an amendment to the constitution extending the same privilege to all cities containing more than 10,000 inhabitants. This amendment was submitted to the people of the State and adopted at a special election held April 12, 1887.

Los Angeles was the first of the smaller cities to take advantage of the new privilege. Soon after the amendment was passed steps were taken in the city to elect a Board of Freeholders. The result was a charter which provided for a very concentrated government, and which upon being submitted to the people, was defeated by a large majority. On May 31, 1888, another Board of Freeholders was elected, who framed a second charter, which was approved at the polls on October 20, 1888, by the following vote: For, 2,642; against, 1,890, and which is the present charter of the city. Upon being submitted to the Legislature the latter gave its approval January 31, 1889. A letter from the Mayor's office, says that there exists in the city "a decided feeling in favor of this mode of framing a charter."

On December 10, 1887, the people of the city of Oakland elected fifteen freeholders, who framed a charter which was approved by the people at an election held November 6, 1888. It was confirmed by the Legislature February 14, 1889.

Stockton chose a Board of Freeholders May 29, 1888, who reported a charter on August 27, which was published according to the constitutional requirement, and approved by the people at a special election November 20, 1888. It was adopted by the Legislature March 2, 1889.

San Diego elected freeholders December 5, 1888. On January 10, 1889, the charter was completed and was signed by all the members of the board. The people approved it on March 2, and on March 16 it was ratified by the Legislature, only a little more than three months after the election of the freeholders. This charter is still in force though plans are on foot to radically amend it.

All the cities which had the requisite population framed new charters, as permitted by the constitution, except San Jose and Sacramento. The latter city recently took steps in this direction and a "Freeholders' Charter" was adopted at an election held May 17, 1892. The vote was, for the charter, 1,598, and against it, 741, an exceptionally light vote as the total registration in the city exceeds 7000.

The four charters adopted by the Legislature at the session of 1889, were all passed by joint resolution. It was held in the case of Los Angeles that this kind of passage was not sufficient, but, as with laws, the Governor should have the power of veto. In *Brooks vs. Fischer*,\* the Supreme Court denied the contention that the law-making power and the Legislature were one and the same thing. The constitution stated that the charters should be "submitted to the Legislature" and it was held that the Governor though a part of the law-making authority of the State was no part of the Legislature.

The Legislature at the session of 1889 proposed by another constitutional amendment to still further extend the privilege of municipal self-government giving the right to frame its own charter to any city in the State containing more than 3,500 inhabitants. This amendment was adopted by the people of the State November 4, 1890, by a large majority, thus extending the right to fourteen new cities.

Very soon a question arose as to what powers over a city were possessed by the Legislature after the city had framed and adopted its own charter. By what looks to have been an oversight on the part of the Convention it is stated in the

\* 79 Cal. p. 173.

Constitution, Section 6 of Article XI., relating to Cities, Counties and Towns, that "Cities and towns heretofore or hereafter organized and all charters thereof framed or adopted by authority of this constitution shall be subject to and controlled by general laws." This is directly in conflict with the spirit of Section 8 of the same Article conferring the privilege of making their own charters upon cities of the requisite population. This question reached a decision in the Supreme Court in September, 1890, in the case of *Davies vs. City of Los Angeles*.\* The Legislature had passed a general State law with regard to the opening and widening of city streets. It was held that Los Angeles having separate provisions concerning this subject in its charter was exempted from the operations of the law. The court failed to take this view of the case and in the course of its opinion said: "A charter like the one under which the City of Los Angeles exists is subject to general laws, and a statute like the one now attacked, is a general law within the meaning of the constitution. It is useless to discuss the propriety of allowing the Legislature to interfere by general laws with the local affairs of a city. The constitution so provides in plain terms and so far as the courts of the State are concerned this must settle the controversy. If the power given the Legislature to enact laws of this kind is an evil affecting the rights of the city government, the remedy is by amendment of the constitution."

This remedy, acting upon the advice of the court, the people of the cities affected immediately sought. Los Angeles and San Diego have felt this "general law" restriction very keenly. In San Diego, all street work must be done under State law, the city police court has been shorn of its jurisdiction and the Board of Education must operate under State authority. All the cities, in fact, found that the restriction in large part nullified the advantages of the new system, and united in a demand to the Legislature for a constitutional amendment. This amendment was adopted

\* 86 Cal. p. 37.

by the Legislature March 19, 1891. The language of the amendment is that the charter of the city "shall become the organic law thereof and supersede any existing charter and all amendments thereof and all laws inconsistent with such charter." The constitution heretofore had read "and shall . . . . supersede any existing charter and all amendments thereof and all *special* laws inconsistent with such charter." It is thought this omission of the word "special" will satisfy the needs of the case. The amendment was adopted by the people at the election November 8, 1892, by a vote of 114,617 for and 42,076 against, and the cities now hope for an era of fuller emancipation.\*

\* The section as amended now reads:

**ARTICLE XI. Section 8. Constitution of California.**

Any city containing a population of more than three thousand five hundred inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this State, by causing a Board of fifteen Freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of said city at any general or special election, whose duty it shall be within ninety days after such election, to prepare and propose a charter for such city, which shall be signed, in duplicate, by the members of such Board, or a majority of them, and returned, one copy to the Mayor thereof, or other chief executive officer of such city, and the other to the recorder of the county. Such proposed charter shall then be published in two daily newspapers of general circulation in such city, for at least twenty days, and the first publication shall be made within twenty days after the completion of the charter; *provided*, that in cities containing a population of not more than ten thousand inhabitants such proposed charter shall be published in one such daily newspaper; and within not less than thirty days after such publication it shall be submitted to the qualified electors of said city at a general or special election, and if a majority of such qualified electors voting thereat shall ratify the same, it shall thereafter be submitted to the Legislature for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by a majority vote of the members elected to each house, it shall become the charter of such city, or if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter and all amendments thereof, and all laws inconsistent with such charter. A copy of such charter, certified by the Mayor or chief executive officer; and authenticated by the seal of such city setting forth the submission of such charter to the electors, and its ratification by them shall, after the approval of such charter by the Legislature, be made, in duplicate, and deposited, one in the office of Secretary of State, and the other, after being recorded in said Recorder's office, shall be deposited in the archives of the city, and thereafter all Courts shall take judicial notice of said charter. The charter, so ratified, may be amended at intervals of not less than two years by proposals therefor, submitted by the legislative authority of the city to the qualified electors thereof, at a general or special election, held at least forty days after the publication of such proposals for twenty days in a daily newspaper of general circulation in such city, and ratified by at least three-fifths

The Convention to frame a constitution for the State of Washington which met at Olympia July 4, 1889, drew largely from the constitution of California, and among the features which it borrowed was the section giving cities permission to frame their own charters. The experience of St. Louis was also known and one member in the debates spoke in high terms of this provision of the constitution of Missouri. On July 22 the Committee on County, City and Township Organization reported the scheme to the Convention. In the first report it was to apply to cities containing over 25,000 population. The Board of Freeholders was to consist of fifteen persons as in California, but differing from the system in that State, the charter if accepted by the people, was to go into force at once without ratification by the Legislature. The section met with much discussion in the Convention. There was a motion to "strike out" and to leave charter making to the Legislature. The maker of this motion gave as his reasons that abuses would arise should the people be granted so democratic a privilege. Another speaker doubted if there was a city in the Territory with a population of 25,000, and wanted the figures reduced to 15,000. Others wanted the limit placed as low as 5,000. A motion was heard in favor of allowing any city in the new State, no matter what its population, to frame its own charter. The debate was very heated and the contending elements finally compromised on 20,000. On final passage there were 38 votes in favor of the Section and 24 against.\*

of the qualified electors voting thereat and approved by the Legislature, as herein provided for the approval of the charter. In submitting any such charter, or amendments thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

\*This provision as it occurs in Art. XI. Section 10, of the constitution of the State of Washington is as follows:

Any city containing a population of twenty thousand inhabitants, or more, shall be permitted to frame a charter for its own government, consistent with and subject to the constitution and laws of this State, and for such purpose the legislative authority of such city may cause an election to be had, at which election there shall be chosen by the qualified electors of said city, fifteen freeholders thereof, who shall have been residents of said city for a period for at least two years preceding

By the census of 1890 only two cities in the State had reached the requisite population, Seattle and Tacoma. Spokane, however, lacked but little of the prescribed limit. Seattle adopted a "Freeholder's Charter" October 1, 1890, by a vote of 2,507 for and 502 against. The new government not being suitable for a city of such small size the charter was materially amended March 7, 1892. In spite of this, however, the City Comptroller writes that the "plan is acknowledged to be better than depending upon the Legislature." Tacoma adopted a "Freeholders' Charter" October 19, 1890, by a vote of 2,723 for the charter and 726 against. The Mayor writes that the new "is felt to be superior to the old method."

In these three States, Missouri, California and Washington, we thus find the beginning of a movement to make our cities self-controlling and self-reliant governments. In two, Missouri and Washington, the cities make their own charters, without in the least consulting the State Legislatures. In the third, California, the Legislature, though passing finally upon the charters, must either approve or disapprove as a whole. Approval by the Legislature up to this time has been given without question and it is looked upon as not much more than a formality. In all three States, their election, and qualified electors, whose duty it shall be to convene within ten days after their election, and prepare and propose a charter for such city. Such proposed charter shall be submitted to the qualified electors of said city, and if a majority of such qualified electors voting thereon ratify the same, it shall become the charter of said city, and shall become the organic law thereof, and supersede any existing charter, including amendments thereto, and all special laws inconsistent with such charter. Said proposed charter shall be published in two daily newspapers published in said city, for at least thirty days prior to the day of submitting the same to the electors for their approval, as above provided. All elections in this section authorized shall only be had upon notice which notice shall specify the object of calling such election, and shall be given for at least ten days before the day of election in all election districts of said city. Said elections may be general or special elections, and except as herein provided shall be governed by the law regulating and controlling general or special elections in said city. Such charter may be amended by proposals therefor, submitted by the legislative authority of such city to the electors thereof at any general election after notice of said submission published as above specified, and ratified by a majority of the qualified electors voting thereon. In submitting any such charter, or amendment thereto, any alternate article or proposition may be presented for their choice of the voters, and may be voted on separately without prejudice to others.

however, there is uncertainty as to the exact relation which such a city bears to the State, and doubt as to what extent a Legislature can legislate for a city after the latter has adopted its own charter. This question has assumed important proportions in California, and though an effort was made to harmonize the contending interests by constitutional amendment at the election in November last, it is not clear that such a result has yet been reached. The difficulty would seem to be an inherent one and it will not be likely to disappear until the divorce of State and city is complete.

This movement to separate our city and State governments which has reached the stage of practical experiment in the three States mentioned is, in truth, only the development of all the best of the later tendencies in thought regarding this subject. Such a solution of the problem as this has been looked upon by all recent competent students of municipal government as the only true plan of reform. The subject was given careful attention by commissions in two States, New York and Pennsylvania, now almost twenty years ago. Governor Tilden, of New York, in a special message to the Legislature of that State, in 1875, remarked upon the evils of the municipal system. A commission, which was authorized by law to "devise a plan for the government of cities in the State of New York," after thorough investigation reported in favor of a curtailment of the powers of the State Legislature. Certain constitutional amendments were proposed, in accord with the recommendations made by the commission, which passed the Legislature of 1877, and were to have been submitted to the people in November, 1878, if they had passed the Legislature of 1878. In this second passage, however, they failed, despite the efforts of the people representing the best interests in New York, Brooklyn and the other cities of the State. About the same time a commission, appointed by Governor Hartranft, of Pennsylvania, made a report, in which the conclusions arrived at showed a similar tendency.

The plan in use in Missouri, California and Washington is but a step in the direction of full emancipation for our large American cities, when they must stand in the same relation to the National Government that the States do. There can no good come of a system which, for instance, makes New York and Brooklyn a part of New York State, and which makes them dependent upon the country members of the Legislature and other non-residents for their charters and local laws. There are only fifteen out of the forty-four States of the Union with a population greater than that of New York City. The city has more inhabitants than the entire neighboring State of New Jersey. If Brooklyn, Jersey City and the other cities and towns contiguous to New York, whose interests are all common and allied, were consolidated in a single government, the resultant would be a city containing over three millions of people, a greater population than is now possessed by any State except four, New York, Pennsylvania, Illinois and Ohio. New York State, deprived of New York City and Brooklyn, would take a much lower place in the list, and the consolidated city, at the present rate of growth of city populations, in a short time would contain more inhabitants than any State in the Union. The interests of all our large cities are totally diverse from the interests of the remaining sections of the States in which they are placed by our artificial arrangement of boundaries. We have massed different peoples together who have no mutual sympathies, who are opposites in political and social standards and antipodal in wants and governmental requirements. The evil is a very present one. For the good of the cities themselves, and likewise for the good of the States, it is necessary that our large cities should be free cities.

ELLIS PAXSON OBERHOLTZER.

*Philadelphia.*